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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 KARL PHILIP JOHNSON,

12 Plaintiff,

13 vs.

14 CITY OF SAN DIEGO, et al.,

15 Defendants.

CASE NO. 08cv887 WQH (WMC)

ORDER


HAYES, Judge:

16 On May 19, 2008, Plaintiff initiated this action by filing the Complaint (Doc. # 1). On
17 January 5, 2009, this Court issued an order requiring Plaintiff to file either (1) proof that
18 service of the summons and complaint was timely effectuated, or (2) a declaration showing
19 good cause for failure to timely serve the Defendants with the summons and complaint
20 accompanied by a motion for leave to serve process outside of the 120 day period (Doc. # 4).
21 On January 30, 2009, Plaintiff filed the Ex Parte Motion for Leave to Service Process Outside
22 the 120 Day Period ("Ex Parte Motion") (Doc. # 5). Plaintiff requests that "good cause be
23 found" and that the Court "allow a brief period of time to effectuate service on the named
24 defendants." *Id.* at 6. In support of the Ex Parte Motion, Plaintiff submitted the declaration
25 of his attorney, Ronald J. Higgins. Higgins attests that "a number of situations occurred in
26 2008 that seriously handicapped, and to a great extent debilitated me," including Higgins'
27 elderly mother sustaining a broken hip, Higgins' youngest brother being diagnosed with
28 cancer, and Higgins being engaged in "back-to-back serious felony criminal trials." *Higgins*

1 *Decl.*, ¶ 2. Higgens attests that “[i]t is my belief that the foregoing rises above the level of
2 excusable neglect and constitutes good cause.” *Id.*, ¶ 3. In light of the Ex Parte Motion and
3 Higgens’ supporting declaration, the Court concludes that Plaintiff has shown good cause for
4 failure to timely serve the Defendants within the 120 day period.

5 IT IS HEREBY ORDERED that the Ex Parte Motion for Leave to Serve Process
6 Outside the 120 Day Period (Doc. # 5) is **GRANTED**. Plaintiff shall file proof that service
7 of the summons and complaint was effectuated on or before **Monday, March 23, 2009**.

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9 DATED: February 18, 2009

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11 **WILLIAM Q. HAYES**
12 United States District Judge
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